

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 28, 2002

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Amend Prior Board Actions of February 23, 2001 (Item, D-7)
and July 13, 2001, (Item D-32) Related to the Kaneohe Bay
Piers Amnesty Program, Kaneohe, Koolaupoko, Oahu

BACKGROUND:

Over the past few years, the Board of Land and Natural Resources (Board) has taken various actions to plan and implement a program to address the problem of unauthorized piers in Kaneohe Bay. This program, entitled the Kaneohe Bay Piers Amnesty Program, provides pier owners with the required permits to achieve compliance with the State's land use laws.

On February 23, 2001, under Agenda Item D-7, the Board approved the appraisal methodology to be used to determine appropriate rental for the piers. The Board adopted Methodology 1 using the 2000-2001 tax assessed values.

On July 13, 2001, under Agenda Item D-32, the Board amended staff's recommendation by adding certain conditions to the Conservation District Use Permit approval for the Kaneohe Bay Piers Amnesty Program. One of the additional conditions was:

"That pier owners have one year from the date of the Board's decision on the Conservation District use Application to complete all matters related to the execution of a lease including maps, liability insurance, lease payments, insurance, appraisals and performance bonds."

On August 24, 2001, under Agenda Item D-29, the Board authorized the lease of 150 private, non-residential pier leases. In this approval, the Board provided the applicants the alternative of paying for the hiring of an independent appraiser if the applicant did not accept the appraisal methodology earlier approved by the Board.

Staff has been processing the pier leases (refer to Exhibit A for a status report) and has encountered certain problems. To resolve these problems, staff is recommending amendments to these prior Board actions as follows.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
June 28, 2002 *kek*

ITEM D-16

2000-2001 Assessed Values

When the staff appraiser developed the methodology, he was relying on the assessed values that generated the August 2000 and February 2001 property tax payments. This set of values was the latest figure at the time the methodology was established. However, the City & County of Honolulu uses the term "Assessment Year" in dealing with real property taxes. Staff has checked with the City's Tax Office and has learned that the values we intend to use pursuant to the approved methodology are under Assessment Year 2000. As mentioned earlier, the Board's approval referred to "2000-2001 assessed values." To clarify this issue, staff suggests that the Board amend its prior action of February 23, 2001, Item D-7, by replacing "2000-2001 assessed values" with "assessed values of Assessment Year 2000."

Approved Methodology

The approved appraisal methodology uses the assessed value of the abutting property, which in most cases, belongs to the pier owner. However, staff has noticed that in some cases, the methodology may not be entirely applicable.

For example, there is a pier abutting a parcel which is owned and used by the pier owner as a right-of-way (4-7-19:44) and the owner is living mauka of Kam Highway (4-7-19:43). The assessed value of the right-of-way is \$100 for an area of 1,663 square feet. Staff discussed this case with the staff appraiser who opined that using the average values of the neighboring property would be more appropriate to determine the rental for the pier.

While the staff agrees that the original methodology should be adhered to as much as possible, there are cases in which special circumstances warrant the staff appraiser to use other data or information to determine the rental for the pier. Therefore, staff recommends the Board allow the staff appraiser, subject to the approval of the Chairperson to use other data, in addition to the assessed value of the property abutting the pier to determine the lease rental if special circumstances arises. This amendment shall give the staff appraiser more flexibility in determining the lease rental while maintaining the integrity of the approved methodology.

Deadline to Submit Relevant Material

As established by the Board at its meeting of July 13, 2001, the deadline for the pier owners to submit material required for the execution of the lease is July 13, 2002. After the Board waived the requirement of the performance bond on October 26, 2001 (Item D-4), staff expected the pier owners would start hiring their land surveyors. In the dialogue with the pier owners, staff has brought the deadline to their attention. In February 2002, staff sent another letter to all the pier owners reiterating the deadline of July 13, 2002 and reminding them to start hiring their land surveyor if they hadn't already.

To date, we have received maps from only 20 applicants. Some pier owners told the staff that the land surveyors are too busy to work on

their job. The earliest date that a land surveyor can go to their house for a survey will be around this summer. Staff has verified the situation with some private land surveyors. Further, if an encroachment is found during the process of submitting the maps, a request for easement will be processed which effectively defers the execution of the lease until the encroachment is resolved. Out of the 20 maps received, staff has received about 11 cases in which an encroachment was found. Staff is reviewing those encroachment cases and will bring them to the Board for consideration if necessary.

In view of the forthcoming deadline, staff requests the Board defer the deadline for two more years, until June 30, 2004 or one year prior to June 30, 2005, the sunset date of Act 261.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of February 23, 2001, Item D-7, by amending the Recommendation Section to read as follows:

"That the Board of Land and Natural Resources adopt alternative 1 **Methodology 1 together with [2000-2001] assessed values of Assessment Year 2000** to determine the appropriate lease rental rates for private non-commercial residential piers on Kaneohe Bay, Oahu, provided where special circumstances exist, the staff appraiser may use his/her discretion in determining the appropriate pier rental subject to the approval of the Chairperson."

2. Amend its prior Board action of July 13, 2001, Item D-32, by amending the deadline for applicants to submit required items from July 13, 2001 to June 30, 2004.

Respectfully Submitted,


Barry Cheung
Acting Supervising Land Agent

APPROVED FOR SUBMITTAL:


GILBERT S. COLOMA-AGARAN, Chairperson



Kaneohe Bay Piers Amnesty Program - Status Report

	Group	Number of cases	Remarks
Responded	Join the program (Active cases)	159	165 cases approved by the Board since August 24, 2001. 8 applicants withdrew (1 stay on RP, 7 no pier) after the Board approval. 2 new applications received recently.
	No pier	31	We will send staff to confirm this.
	Pier not on State land	10	
	Will remove the pier	1	
	Pier is legal	4	Covered by GL or DOT's permit
	Stay on existing RP	3	
	Others (To be verified)	7	Kaneohe Yacht Club Lord-donating the property to UH Fox-Included in a joint application with the neighbor Morrison-He built his pier in 1959 Habilitat, Inc YWCA of Oahu Multiple owners
Total		215	

No Response	No response	15
	Existing RP, no DOT permit	1
	Existing RP, with DOT permit	1
Total		17

Total number of cases: 232

No. of cases agree to use the Board approved methodology: 73

No. of cases decide to hire independent appraiser: 2

No. of cases submitted survey maps: 20

No. of encroachment cases found: 11

No. of encroachment easement executed: 0

No. of pier leases executed: 0

Date prepared:
June 10, 2002

EXHIBIT A